REMARKS

Replacement drawing Figure 1 is enclosed. Fig. 1 identifies SCAN™ software 24 in memory 14. Page 4, lines 13-16 of the specification clearly identify the SCAN™ software as the present invention and not prior art.

Claims 6 and 18 are cancelled.

Claims 1-5, 11-16, 20-23, 26, 28, 31-32, 34, and 37 are amended. New claim 38 is added (containing subject matter from former claim 3). No new matter is added.

An affidavit by the inventor pursuant to 37 CFR § 1.131 is enclosed, establishing a date of invention at least as early as November 1999. This removes the Sherman reference as prior art and moots the 35 U.S.C. § 103 rejections.

The Examiner rejected claims 1-2, 4-7, 26-27, and 32-33 under 35 U.S.C. § 102 as being anticipated by SociometryPlus. "[A] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). SociometryPlus fails to disclose every element of claims 1, 26, or 32.

SociometryPlus is a computer program for performing rudimentary sociometric analysis of adults in a business setting. The software claims "to calculate sociometric indexes for groups and individuals according to four kinds of occupation: professional (ability to achieve common professional goals working in close contact), managerial, public or recreational." Reference B, p. 2, lines 3-6. The claimed benefits include identifying community leaders, uncovering tense relationships among colleagues, assessing individuals' attention to their duties, analyzing proposals to restructure a community's activities, and analyzing proposals to change

management style. Reference B, p. 2, lines 11-17. These are all business or community

activities of adults.

As amended herein, claims 1, 26, and 32 are explicitly directed to the sociometric

analysis of <u>schoolchildren</u>, to analyze <u>social status</u> and/or <u>social relationships</u>. SociometryPlus

does not teach or suggest either limitation. The distinction is critical. Applicant's specification

discusses the importance of ascertaining social standing in schoolchildren, at p. 1, lines 8-19:

> Social and behavioral problems in school children are well known.
> For example, almost every class has its bullies and their victims. Some
> children are popular; others are neglected by their peers. These social and
> behavioral problems are known to adversely impact some children's
> psychological and emotional development. In extreme cases, they may
> even manifest themselves as outbreaks of violence, such as school
> shootings. It is also well known that psychologists and mental health
> professionals can assist students with behavioral problems through a
> variety of interventions – assuming the problem children can be accurately
> identified.
>
> Identification of children with behavioral problems is deceptively
> difficult. Research indicates that their teachers identify only twenty percent
> of peer-rejected children. Parents are only slightly more accurate,
> identifying just over thirty percent of children disliked by their peers.

This has nothing to do with grouping the individuals by profession, identifying team

leaders, or assessing management styles – the disclosed focus and benefits of SociometryPlus.

For at least the reason that SociometryPlus fails to disclose or suggest a method of performing

sociometric analysis of <u>schoolchildren</u> to analyze <u>social status</u> and/or <u>social relationships</u>, as

explicitly recited in claim 1, the rejection of claim 1 must be withdrawn. Claims 26 and 32 are

amended herein to explicitly recite the same limitations. For at least the reason that

SociometryPlus fails to disclose or suggest these limitations, the rejection of claims 26 and 32

must also be withdrawn.

Claim 2 recites creating a sociometric questionnaire by displaying a plurality of

predetermined questions, accepting a user's selection of the offered questions; and generating

a questionnaire containing the selected questions. The advantage of this feature is discussed in

Applicant's specification at p. 7, line 25 – p. 8, line 13:

The SCAN™ program facilitates the generation of sociometric questionnaires by providing a series of relevant questions that may be easily included. Among these, listed by way of example and not limitation, are questions such as: Who do you like most? Who do you like least? Who is aggressive? Who is teased often? Who is picked on? Who is shy? Who is weird or strange? Who are your friends? Who are your best friends? Having a user select the sociometric questions from among a pre-defined list not only facilitates ease of creation of the sociometric questionnaire, but also <u>enhances the consistency and repeatability of sociometric analyses</u> performed among different groupings of individuals, or at different times. Additionally, the selection of pre-determined sociometric questions facilitates the use of the software by lay persons, as <u>the sociometric analysis functionality of the software "knows" the significance of the questions selected</u>, and can generate significant useful results in reliance on the <u>pre-determined interrelationship</u> of the sociometric questions, without requiring re-programming or manipulation of the statistical analysis engine to process new data types.

SociometryPlus does not disclose creating a sociometric questionnaire by selecting from a list of predetermined sociometric questions. SociometryPlus discloses a Questionnaire Form Wizard that assists users in creating sociometric questionnaires. As well known in the art, Wizard is a computer program that assists a user in performing a task by walking the user through the steps of the task in an interactive manner. Figure 2 is a screen shot of the introductory text of the Wizard. Figure 3 accepts file location and type specification. Figure 4 prompts the user for text that will be displayed in the sociometric questionnaire before the sociometric questions. Figure 5 prompts the user for text that will be displayed after the sociometric questions. Figure 6 optionally runs a program to view the questionnaire. Nowhere does SociometryPlus disclose a user selecting specific questions to be included in a sociometric questionnaire from among a list of predetermined questions having known relationships. In the free evaluation copy, eight to sociometric questions (four positive questions and their negative counterparts) appear after the Wizard runs. The list of features touted on the erstwhile web site *thesociometry.org* includes "Customizable Sociometric Questions;" however, there is no disclosure – on the archive of the web site, in the evaluation version of the software, or in any of the pages provided by the examiner – of a user selecting sociometric questions from among a plurality of predetermined sociometric questions provided by the software. For at least the

reason that SociometryPlus fails to disclose or suggest this limitation, the rejection of claim 2 must be withdrawn. Claims 27 and 33 recite the same limitations. For at least the reason that SociometryPlus fails to disclose or suggest this limitation, the rejection of claims 26 and 32 must also be withdrawn.

SociometryPlus does not disclose or suggest associating with each schoolchild in a group, a unique identifier other than the child's name, as recited in claim 4. Nor does SociometryPlus disclose or suggest listing the schoolchildren in a group in alphabetical order by first name, as recited in claim 5. In fact, SociometryPlus teaches precisely the opposite. In every listing of group members in SociometryPlus, each group member is identified only by name, and the list is alphabetized by the last name. This is yet another indication of the fundamental difference between a sociometric analysis program targeted to <u>adults</u> in a <u>business</u> environment and that specifically directed to analyzing <u>social status</u> and <u>social relationships</u> among <u>schoolchildren</u>.

Claims 7 recites a unique method of error-checking the entry of results of sociometric questionnaires, which is not disclosed or suggested by SociometryPlus. First, the present invention contemplates that sociometric questionnaires will be printed for distribution and answering, with the results being entered into the computer for analysis. A unique display that precisely matches the printed questionnaire facilitates this data entry, reducing errors. See p. 9, line 7 – p. 10, line 9:

> The compilation of results of the sociometric questionnaire, *i.e.,* entering all of the nominations for each of the sociometric questions (block 38), is typically one of the most error-prone phases of traditional sociometric analysis. ... According to one embodiment of the present invention, data entry is simplified and accuracy increased through the display of a replica of each sociometric question, with the entire nominating group available for selection. In other words, for each sociometric question, the question and the entire peer group appear on the computer display 18 (see Fig. 1) in a format directly analogous to the printed form in the sociometric questionnaire. Thus, a user entering results from the questionnaire would, for each sociometric question from each individual, simply select the entries on the on-screen form that correspond to the entries indicated on the sociometric questionnaire. ... The selected
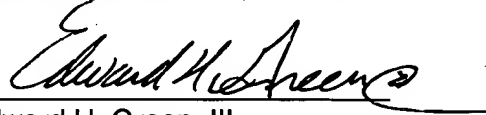
nominations on the on-screen replica are indicated, such as by highlight, reverse video, an associated check-box or radio button, or similar visual indicator. When all of the indicated nominations from the sociometric questionnaire have been indicated on the replica, the replica and the questionnaire will match. At this point, the user may indicate that the data is to be accepted, and go on to the next question (or the next individual). Data entry is thus essentially reduced to a visual pattern-matching exercise, which is known in the art to reduce errors and speed the data entry process.

SociometryPlus discloses that each individual answers the questionnaire at a computer – either the same computer or different computers (in Interview Mode). In this environment, error-checking the entry of results is superfluous. Accordingly, SociometryPlus does not disclose or suggest the novel data entry facility for capturing the result of sociometric questionnaires into the computer for analysis, as recited in claim 7. For at least this reason, the rejection of claim 7 must be withdrawn.

As all pending claims exhibit patentable novelty over the art of record, prompt allowance of all pending claims is respectfully requested.

Respectfully submitted,

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